

# Debtors' Ex. 97

Laws of Puerto Rico Annotated Currentness

Title 13. Taxation and Finance

Subtitle 8. Additional Income and Internal Revenue Tax Provisions

Part II. Additional Taxes

Chapter 216. Room Occupancy Rate Tax Act

Subchapter III. Taxes and Obligations

13 L.P.R.A. § 2271v

§ 2271v Disposition of funds

The Company shall distribute all funds collected from the tax imposed under § 2271~~o~~ of this title, as follows:

(a) Before the beginning of each fiscal year, the Bank shall determine and certify to the Company and to the Authority, the amount necessary for the Authority to make, during such fiscal year and the first day of the following fiscal year:

(1) Full and timely payment, or the amortization of the principal and interest on the obligations incurred by the Authority with the Bank or the bonds, notes or other obligations issued, assumed or incurred by the Authority, pursuant to Act No. 142 of October 4, 2001, as amended, with the prior written authorization of the Company, to exclusively carry out the development and construction of a new convention center and its related infrastructure;

(2) full and timely payment of the obligations of the Authority under any bond related financing agreement, as this term is defined at the end of this subsection, entered into by the Authority with the prior written authorization of the Company;

(3) the deposits required to replenish any reserves established to ensure the payment of the principal and the interest on such bonds, notes and other obligations issued, assumed or incurred by the Authority, or obligations under any bond related financing agreement, and

(4) any other expenses incurred in connection with the issuance of such bonds, notes or other obligations assumed or incurred by the Authority, or with any other bond related financing agreement.

The prior written approval of the Company shall specifically authorize the amortization schedule of the principal of the bonds, notes or other obligations to be issued, assumed or incurred by the Authority and the final terms and conditions of any bond related financing agreement to be entered into by the Authority. The sum determined and certified by the Bank, as indicated above, shall be deposited in a special account to be maintained by the Bank in the name of the Authority for the benefit of the bondholders, noteholders or the holders of other obligations of the Authority or for the benefit of the other contracting parties under any bond related financing agreement. The Bank shall transfer the amounts deposited in such special account to the trustees of the bondholders, noteholders or the holders of other obligations of the Authority or to the other contracting parties under any bond related financing agreement, in accordance with the written instructions provided to the Bank by the Authority.

Each fiscal year, the Company shall transfer to the Bank, for deposit in such special account, the sum established in the immediately preceding paragraph through monthly transfers, commencing on the month immediately

succeeding the month in which this act is enacted and on the first month of every succeeding fiscal year, of an amount equal to one tenth (1/10) of the amount determined and certified by the Bank as necessary for the payments to which the first part of this subsection refers; Provided, however, That for the fiscal year in which this act is enacted, the amount of each monthly transfer shall be a fraction, determined by dividing the number one (1) by the number of months remaining in such fiscal year after the month in which this act is enacted, of the amount determined and certified by the Bank as necessary for the payments to which the immediately preceding paragraph refers. Provided, further, That if in any given month of the fiscal year, the funds collected by reason of such tax are not sufficient to comply with the monthly transfers provided herein, the Company shall correct such a deficiency by transferring to the Bank, for deposit in such special account, the amount of such deficiency using to cover such deficiency, the excess of the tax collected in subsequent months over the amount to be deposited monthly in such subsequent months in accordance with the first sentence of this paragraph. Each month, after making the transfer of monies to the Bank as provided in this subsection, the Company shall distribute any remaining amount as established in subsection (b) of this section.

The Authority is hereby authorized, with the prior written consent of the Company, to pledge or otherwise encumber the revenues product of the fixed tax collected which is to be deposited in a special account as required by the first paragraph of this subsection, as security for the payment of the principal and interest on the bonds, notes or other obligations issued, assumed or incurred by the Authority, as described in the first paragraph of this subsection, or for the payment of its obligations under any bond related financing agreement, as described in said paragraph. Such a pledge or obligation shall be subject to the provisions of [Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico](#). The product of the collection of the tax shall be used solely for the payment of the interest and the amortization of the public debt, as provided in [Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico](#), but only to the degree to which the other available resources to which reference is made in said Section are insufficient for such purposes. Otherwise, the product of said collection, in the amount necessary, shall be used solely for the payment of the principal and interest on the bonds, notes or other obligations and the obligations under any bond related financing agreement contemplated herein, and to comply with any stipulations agreed to with the bondholders, noteholders or holders of other obligations or the providers under bond related financing agreements.

In case the total product of the tax presently assigned or to be assigned in the future to the Authority, in accordance with this subsection, is used to service payments of the public debt and applied to cover the deficiencies in the amounts needed to make such payments, the amounts of this tax used to cover said deficiency shall be reimbursed to the Authority out of the first revenues received in the next fiscal year or subsequent fiscal years by the Commonwealth of Puerto Rico proceeding from any remaining portion of the tax then in effect, subject to the provisions of [Section 8 of Article VI, of the Constitution of the Commonwealth of Puerto Rico](#).

The Commonwealth of Puerto Rico hereby agrees and makes a commitment with any person, firm or corporation or with any agency of the United States of America or of any state or the Government of the Commonwealth of Puerto Rico, who subscribes or acquires bonds, notes or other obligations, or enters into bond related financing agreements for the payment of which the product of the tax is pledged, as authorized by this section, that it will:

- (1) Not reduce such tax and not decrease its rates, as fixed in § 2271o of this title in effect as of date of approval of this act;
- (2) not eliminate or reduce the tax to an amount lower than that established in § 2271o of this title, or eliminate or reduce the rates of the tax fixed in § 2271o of this title;

(3) make sure that the amounts that must be deposited in the special account as provided in this subsection, are deposited in such special account as provided in this section, and

(4) not alter or limit the rights acquired hereby by the Authority to encumber or pledge the collections from the tax required to be deposited in the special account according to the first paragraph of this subsection and comply with the terms of any agreement entered into with, or for the benefit of the bondholders, noteholders or holders of other obligations of the Authority or the other subscribing parties under any bond related financing agreement, until such time as such bonds, notes or other obligations issued, assumed or incurred at any time, including the interest thereon and any obligation under any bond related financing agreement, have been paid in full. The Authority, as an agent of the Commonwealth of Puerto Rico, is hereby authorized to include the commitment and agreement with the Commonwealth of Puerto Rico, as set forth in this paragraph, in any contract with the bondholders, noteholders or the holders of other obligations of the Authority or any subscriber of a bond related financing agreement. For purposes of this subsection, a 'bond related financing agreement' means any interest rate exchange agreement or similar agreement, any bond insurance policy, letter of credit or other credit enhancement, liquidity agreement or similar agreements, arrangements or contracts.

(b) The Company shall make monthly distributions of the excess over the amounts needed for each monthly transfer to the Bank as provided in subsection (a) of this section, of the tax imposed in § 2271o of this title, that is collected each fiscal year, in accordance with the following order of priority:

(1) Two percent (2% ) of the total tax collected shall enter monthly into the general funds of the Company to cover expenses related to the operation, management, and distribution of the tax collected, or for any other use as determined by the Company.

(2) Five percent (5% ) of the total tax collected shall be covered monthly into the General Fund of the Department of the Treasury for Fiscal Years 2005-2006 and 2006-2007, into the funds of the National Parks Company for Fiscal Years 2007-2008 and 2008-2009, and into the funds of the Company as of Fiscal Year 2009-2010. As of the year in which the Authority certifies to the Department of the Treasury and to the Company, the commencement of the operation of the Convention Center, and during the ten (10) subsequent years, this five percent (5% ) shall be available to cover any deficit, if any, arising from the operations of the facilities operated by the Convention Center District Authority in a reserve to be maintained by the Company, as provided in clause (4) of this subsection. Provided, however, That for each fiscal year and/r each time the Convention Center District Authority intends to propose a budget which exceeds the deficit of two million five hundred thousand dollars (\$2,500,000), the budget of the Convention Center District Authority shall be presented to the Board of Directors of the Authority, the Board of Directors of the Company, and the Secretary of the Treasury for Fiscal Years 2005-2006 and 2006-2007, and to the Board of Directors of the National Parks Company for Fiscal Years 2007-2008 and 2008-2009 at a meeting held specifically for such a purpose, and to the Board of Directors of the Authority and the Board of Directors of the Company as of Fiscal Year 2010-2011 henceforth. This five percent (5% ) shall be available during each fiscal year in a special reserve account maintained by the Company to cover any deficit in excess of two million five hundred thousand dollars (\$2,500,000), arising from the operation of the facilities of the Convention Center District Authority. For each fiscal year, any surplus after covering such operational deficit, if any, shall be released from the special reserve and shall be available for use by the Department of the Treasury for Fiscal Years 2005-2006 and 2006-2007, by the National Parks Company for Fiscal Years 2007-2008 and 2008-2009, and by the Company as of Fiscal Year 2010-2011.

(3) Nine percent (9% ) of the total tax collected shall be covered monthly into the general funds of the Company to cover the expenses of the Convention Center Bureau. Provided, however, That after Fiscal Year 2003-2004, the amount of the collections on account of the tax to be remitted by the Company under this clause shall not be

less than four million five hundred thousand dollars (\$4,500,000) annually. The Company shall transfer to the Convention Center Bureau the corresponding amount in monthly installments of three hundred seventy-five thousand dollars (\$375,000). In case the amount deposited for any month is less than three hundred seventy-five thousand dollars (\$375,000), the Company shall correct such deficiency by depositing the funds that become available in subsequent months of the same fiscal year.

(4) Up to two million five hundred thousand dollars (\$2,500,000) shall be kept available during each fiscal year, in a special reserve account maintained by the Company for the operations of the Convention Center District Authority. Provided, however, That for each fiscal year and/r each time that a modified budget is to be presented, the budget of the Convention Center District Authority shall be presented jointly to the Board of Directors of the Authority and to the Board of Directors of the Puerto Rico Tourism Company, at a meeting held specifically for such a purpose. The Company shall maintain this amount in said reserve in monthly amounts of two hundred eight thousand three hundred thirty-three dollars and thirty-three cents (\$208,333.33). This amount shall be reserved as of the year in which the Authority certifies in writing to the Company that the Convention Center has commenced operations, and for a period of ten (10) years.

(5) The remainder available after the payments provided in clauses (1)-(4) of this subsection shall be allocated to the Company. The funds appropriated to the Company shall be used by the latter for promoting, marketing, developing and strengthening the tourist industry in Puerto Rico.

The Company shall submit a monthly breakdown of the revenues collected from the tax to the Authority and the Convention Center Bureau.

#### Credits

Sept. 9, 2003, No. 272, § 31; Mar. 12, 2008, No. 23, § 3; July 10, 2010, No. 74, § 16.

#### History

**Text references.** References to 'this act' are to Act Sept. 9, 2003, No. 272, with the exception of § 31, which constitutes this chapter. Act Oct. 4, 2001, No. 142, referred to in the first paragraph of subsection (a), repealed and amended portions of §§ 6401 et seq. of Title 23. See notes under § 6401 of Title 23.

**Codification.** Clauses designated with Roman numbers have been changed to Arabic numbers to conform to L.P.R.A style. Amendments 2010. Subsection (b): Act 2010 amended this subsection generally. 2008. 2008. Act 2008 deleted 'For the 2003 2004 fiscal year and subsequent fiscal years' at the beginning of the introductory sentence. Subsection (b): Act 2008 substituted 'fixed' with 'levied' in the introductory paragraph; and in the last paragraph added the reference to the National Parks Company and amended this paragraph generally.

Subsection (b)(2): Act 2008 added 'for Fiscal Years 2005-2006..Fiscal Year 2007-2008' throughout the clause. Subsection (b)(4): Act 2008 added 'for Fiscal Years 2005-2006..Fiscal Year 2007-2008' throughout the clause; added the last sentence of the first paragraph; in the second paragraph, substituted 'Department of the Treasury' with 'National Parks Company' in the third sentence; and substituted 'both Boards' with 'the pertinent Boards' and deleted 'at a meeting specifically held for such a purpose' from the end of the last sentence. Subsection (b)(5): Act 2008 added the two Provisos. Subsection (b)(6): Act 2008 added this clause.

**Effectiveness.** Section 69 of Act Sept. 9, 2003, No. 272, provides: 'This Act this chapter shall take effect one hundred and eighty (180) days after its approval, except for the provisions of Section 31, which shall become effective as of July 1, 2003.'

**Statement of motives. Mar. 12, 2008, No. 23. July 10, 2010, No. 74.**

**Special provisions. See note under § 2271 of this title.**

13 L.P.R.A. § 2271v, PR ST T. 13 § 2271v

The Constitution, statutes, and court rules are current through all acts translated by the Translation Office of the Puerto Rico Government through the 2010 Legislative Session and various acts from 2011 to April 2017.

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